

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
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DATE FILED: 5/20/2019

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DANIELLE GROOVER,

Plaintiff,

-against-

MERIDIAN FINANCIAL SERVICES, INC. and  
DOES 1 through 10, inclusive,

Defendants.

-----X  
VALERIE CAPRONI, United States District Judge:

19-CV-1254 (VEC)

ORDER

WHEREAS on May 6, 2019, the Court ordered counsel for Plaintiff, Amir J. Goldstein, Esq., to show cause no later than May 10, 2019 why he should not be sanctioned under Fed. R. Civ. P. 16(f), 28 U.S.C. § 1927, and/or the inherent powers of the Court for having failed to appear for a Court-ordered conference, including by being ordered to pay Defendant's reasonable expenses resulting from the violation, *see* Dkt. 21;

WHEREAS on May 13, 2019, because Mr. Goldstein had failed to submit any response to the Court's order to show cause, the Court sanctioned Mr. Goldstein under Fed. R. Civ. P. 16(f)(2) and ordered him to personally pay Defendant's reasonable expenses, including attorney's fees, associated with preparing for and attending the conference on May 3, 2019, *see* Dkt. 23;

WHEREAS on May 16, 2019, pursuant to the Court's May 13, 2019 order, counsel for Defendant, Sean O'Brien, Esq., submitted an attorney affidavit and exhibits documenting Defendant's expenses, *see* Dkt. 24;

WHEREAS on May 16, 2019, after Defendant submitted its documentation of its expenses, Mr. Goldstein submitted an untimely affidavit in opposition that failed to justify his election not to attend the initial pretrial conference, *see* Dkt. 25,

IT IS HEREBY ORDERED that no later than **May 31, 2019**, Mr. Goldstein must (a) pay Defendant **\$1471.80** and (b) file a letter with the Court certifying that payment has been made.

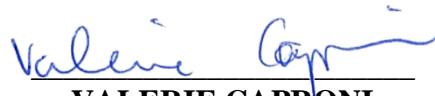
The Court calculated the amount of the sanction as follows:

1. Having considered the factors laid out in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), the Court finds that \$175 per hour is a reasonable rate for Mr. O'Brien, a midlevel associate practicing out of Buffalo, New York.
2. The Court finds that the 0.8 hours Mr. O'Brien spent preparing for the May 3, 2019 conference; the 8.2 hours he spent traveling to, waiting for, and returning from the conference; and the 1.0 hour he spent preparing this fee application are reasonable. The Court will, however, compensate Mr. O'Brien's travel time at half of his normal hourly rate, the standard practice within this district. *See, e.g., M.D. v. N.Y.C. Dep't of Educ.*, No. 17-CV-2417, 2018 WL 4386086, at \*3 (S.D.N.Y. Sept. 14, 2018). Because the Court estimates that only 0.5 hours of the 8.2 hours Mr. O'Brien logged for travel and attendance were spent waiting for the conference to begin, the Court awards 7.7 of Mr. O'Brien's hours at half of his full rate and the remaining 2.3 hours at his full rate. This results in \$1,076.25 in attorney's fees.
3. Because the Court finds that a one way trip on the JFK AirTrain and the New York City subway system costs no more than \$8, the Court deducts \$2 from Mr. O'Brien's \$441.30 in costs. Counsel is commended for minimizing his client's costs by taking public transportation where feasible. But because Mr. O'Brien may use two of the ten dollars he loaded onto his MTA Metrocard for future travel, Rule 16(f)(2) does not permit the Court

to order Mr. Goldstein to reimburse Defendant for those two dollars. Mr. O'Brien's remaining \$439.30 in costs are reasonable.

**SO ORDERED.**

**Date: May 17, 2019**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**